

## **Assembly Bill No. 1660**

### **CHAPTER 85**

An act to amend Section 12967 of the Insurance Code, and to amend Section 42205 of, and to add and repeal Section 42271.5 of, the Vehicle Code, relating to state government.

[Approved by Governor July 12, 1999. Filed with  
Secretary of State July 12, 1999.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1660, Shelley. State government.

(1) Existing law requires the Department of Insurance to develop and implement a coordinated approach to gather, review, and analyze the archives of affected insurance groups, and other archives and records, using onsite teams and an oversight committee, to provide for research and investigation into insurance policies, unpaid insurance claims, and related matters of victims of the Holocaust or of the Nazi-controlled German government or its allies, and the beneficiaries and heirs of those victims, and for losses arising from the activities of the Nazi-controlled German government or its allies for insurance policies issued before and during World War II by insurers who have affiliates or subsidiaries authorized to do business in California.

This bill would rename the oversight committee the Holocaust Era Insurance Claims Oversight Committee (hereafter the oversight committee). The bill would provide for the appointment of 7 persons to the oversight committee, 4 by the Governor, and one each by the President pro Tempore of the Senate, the Speaker of the Assembly and the Commissioner of Insurance. The bill would add to the duties of the oversight committee with respect to specified activities regarding Holocaust era insurance claims in which the department is involved.

(2) Existing law limits expenditure of the funds in the Motor Vehicle Account in the State Transportation Fund to specific purposes relating to the administration and enforcement of laws regulating the use, operation, or registration of vehicles operated on the highways. Those funds may also be used for certain highway and mass transit guideway purposes.

This bill, until June 30, 2000, or until the day after execution of the transfers specified below, whichever date is first, would authorize money in the account that is derived from specified revenue resources to be used for any general governmental purpose, upon appropriation.

The bill would require the Controller to transfer prescribed sums from the State Highway Account to the General Fund and the Motor Vehicle Account upon the determination that certain conditions have occurred. The bill would also require the Controller to transfer a prescribed sum from the Motor Vehicle Account to the General Fund upon determining that certain other conditions have occurred.

(3) Under federal law, the Secretary of Commerce is required to take a decennial census of population, as defined as population and housing, and matters relating to population and housing, every 10 years.

This bill would establish the California Complete Count Committee for the purpose of developing and implementing a plan to maximize the number of persons of this state that participate in the 2000 federal decennial census of population. The committee would consist of 9 members, to be appointed as specified. The committee would be authorized to enter into contracts with individuals or entities as necessary for the development or implementation of the plan. The committee would be required to implement the plan no later than February 15, 2000, and to continue to implement the plan through September 1, 2000. The committee would cease to exist on December 31, 2000.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12967 of the Insurance Code is amended to read:

12967. (a) (1) The department shall develop and implement a coordinated approach to gather, review, and analyze the archives of insurers and other archives and records, using onsite teams and the oversight committee, to provide for research and investigation into insurance policies, unpaid insurance claims, and related matters of victims of the Holocaust or of the Nazi-controlled German government or its allies, and the beneficiaries and heirs of those victims, and for losses arising from the activities of the Nazi-controlled German government or its allies for insurance policies issued before and during World War II by insurers who have affiliates or subsidiaries authorized to do business in California. Information compiled shall be placed in a centralized data base for the retention of policy and claimant data, and the data shall be used to implement this section and Section 790.15.

(2) The department has an affirmative duty to play an independent role in representing the interests of Holocaust survivors where necessary, including the duty to carry out research, investigations, and advocacy. The department shall cooperate with, participate in, promote coordination with, and to the extent feasible and consistent with the purposes of this section, work jointly with the National Association of Insurance Commissioners and the



international commission on Holocaust survivor claims or any other entity involved in the documentation, resolution, settlement, or distribution of insurance claims, including the documentation of unpaid claims and the distribution of proceeds, and the establishment and maintenance of a data base to contain information relevant to claimants and documents and historical information. The department shall work to recover information and records that will strengthen the claims of California residents.

(3) The department shall employ insurance archaeologists, economists, attorneys, accountants, and other specialists, in this country and in Europe, to implement this section. The department shall work jointly with the National Association of Insurance Commissioners and other organizations for this purpose. The department's cooperation with other states shall be for the purpose of advancing survivors' claims while avoiding duplication of efforts, and shall be dependent upon contributions by other states.

(4) In order to assure that Holocaust survivors receive the most aggressive and independent representation possible in pursuit of their historic claims, in contracting with accounting firms, law firms, economists, or others to implement this section, the department shall, to the maximum extent possible, avoid any potential or actual conflict of interest by doing the following:

(A) Seek and give preference to firms that are entirely free of any associations with firms representing insurers and nations from which Holocaust survivors are seeking just treatment of their claims.

(B) If the department finds that is necessary to contract with a firm or firms that have conflicts or potential conflicts of interest, those conflicts or potential conflicts of interest shall be disclosed to the commissioner, and the following requirements shall apply:

(i) The contract shall contain a provision that expresses a formal commitment on the part of the firm to aggressively pursue a maximum just settlement for Holocaust survivors and their families without regard to any adverse impacts on insurers, affiliates of insurers, nations, or others that may have employed the firm or affiliates of the firm that is contracting with the commissioner to assist in carrying out the commissioner's responsibilities under this section.

(ii) If any conflict or potential conflict exists between the firm, or an affiliate of the firm, and an insurer, an affiliate of an insurer, a nation or others directly or indirectly involving Holocaust claims, the firm shall disclose both the fact of the conflict or potential conflict, and all relevant information describing the nature of the conflict or potential conflict.

(iii) If a conflict or potential conflict exists between the firm, or an affiliate of the firm, and an insurer, an affiliate of an insurer, a nation, or others that does not directly or indirectly involve Holocaust claims, the firm shall disclose the fact of the conflict or potential conflict and identify the source of the conflict or potential conflict, but need not



describe the particular circumstances or facts that create the conflict or potential conflict.

(C) The department may take whatever special measures it deems necessary to avoid either the appearance or the reality of conflicts that may undermine public confidence in the integrity of the effort to secure justice for Holocaust survivors.

(b) The funding of the activities provided for by this section for the 1998–99 fiscal year shall be from funds transferred pursuant to subdivision (b) of Section 1523 of the Code of Civil Procedure, which funds are hereby appropriated to the commissioner for that purpose. The commissioner shall seek reimbursement of those funds as provided in subdivision (c).

Funding for subsequent fiscal years shall be subject to the Budget Act and based on a plan submitted by the commissioner to the Legislature outlining the plan for reimbursement of expenses of the department by affected insurers.

Funds made available to implement this section shall be used to develop and implement a coordinated approach to gather, review, and analyze the archives of affected insurance groups, and other archives and records, using onsite teams and the oversight committee. These funds shall also be used to fund the necessary expenses of the Holocaust Era Insurance Claims Oversight Committee established in subdivision (d). The information compiled shall be placed in a centralized data base for the retention of policy and claimant data, and that data shall be used by the department to implement this section.

(c) (1) Any funds recovered by the department for the purpose of reimbursing the state for costs associated with investigation and enforcement actions under this section shall not be deposited in the Insurance Fund, but instead shall be delivered to the Controller for deposit into the General Fund.

(2) To the maximum extent possible, the department shall seek reimbursement for its costs incurred in implementing this section, including funds transferred pursuant to subdivision (b) of Section 1523 of the Code of Civil Procedure, from any settlements reached with affected insurers.

(d) (1) There is established a seven-member Holocaust Era Insurance Claims Oversight Committee, that shall be known as the oversight committee, and whose members shall be appointed as follows:

(A) Four members shall be appointed by the Governor.

(B) One member shall be appointed by the President pro Tempore of the Senate.

(C) One member shall be appointed by the Speaker of the Assembly.

(D) One member shall be appointed by the Commissioner of Insurance.

(2) The Governor shall designate one of his or her appointees as the chairperson of the committee.

(3) Each member of the committee shall serve at the pleasure of the authority that appointed him or her to serve on the committee.

(4) The oversight committee shall be composed of qualified individuals with experience in Holocaust claims cases, similar investigations, archival research, and international law. The oversight committee shall also include Holocaust survivors. No member of the oversight committee shall have a potential or actual conflict of interest, or shall be employed by a person who has a potential or actual conflict of interest.

(5) The appointments shall be expedited because of the urgency due to survivors' needs.

(6) The oversight committee shall have the following authority and shall do all of the following:

(A) Review and make recommendations concerning any insurance settlement negotiation or offer relating to a Holocaust era insurance claim in which the department is involved.

(B) Review and make recommendations to the commissioner on the priorities for expenditure of funds and use of resources by the department for Holocaust era insurance claims related activities.

(C) Recommend whether a proposed settlement of a Holocaust era insurance claim submitted to the committee pursuant to paragraph (7) is equitable before the department finalizes the settlement agreement.

(7) The commissioner, in the event of a proposed settlement of any policy or group of policies relating to Holocaust era insurance claims, shall confer with the committee prior to the department finalizing the settlement agreement. The department may not finalize a proposed settlement of a Holocaust era insurance claim unless the committee, pursuant to subparagraph (C) of paragraph (6), recommends that the proposed settlement is equitable.

(e) The department shall report its progress in implementing this section and its participation in the identification and resolution of insurance claims of Holocaust survivors and their beneficiaries and heirs. The report shall also include an overview of current and anticipated expenditures in implementing this section. The department shall make this report biannually to the insurance and budget committees of the Legislature.

SEC. 2. Section 42205 of the Vehicle Code is amended to read:

42205. (a) Notwithstanding Chapter 3 (commencing with Section 42270), the department shall file, at least monthly with the Controller, a report of money received by the department pursuant to Section 9400 for the previous month and shall, at the same time, remit all money so reported to the Treasurer. On order of the Controller, the Treasurer shall deposit all money so remitted into the State Highway Account in the State Transportation Fund.

(b) The Legislature shall appropriate from the State Highway Account in the State Transportation Fund to the department and the Franchise Tax Board amounts equal to the costs incurred by each in performing their duties pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3. The applicable amounts shall be determined so that the appropriate costs for registration and weight fee collection activities are appropriated between the recipients of revenues in proportion to the revenues received individually by those recipients. The remainder of the funds collected under Section 9400 and deposited in the account may be appropriated to the Department of Transportation, the Department of the California Highway Patrol, and the Department of Motor Vehicles for the purposes authorized under Section 2 of Article XIX of the California Constitution.

SEC. 3. Section 42271.5 is added to the Vehicle Code, to read:

42271.5. Notwithstanding Section 42271, the funds deposited in the Motor Vehicle Account in the State Transportation Fund that are derived from the sale of identification cards, documents, and other information may be used for any general governmental purpose, upon appropriation by the Legislature.

SEC. 4. (a) The Legislature hereby finds and declares that the sum of thirty million six hundred eighty-two thousand dollars (\$30,682,000) is equal to the amount that was collected by the Department of Transportation from property rentals during the 1993–94 fiscal year.

(b) Notwithstanding Sections 182 and 183 of the Streets and Highways Code, upon determining that a court has rendered a final decision on the merits which holds that the transfer made under Item 2660-011-942 of Section 2.00 of the Budget Act of 1993 is invalid and orders that those funds be transferred from the General Fund to the State Highway Account in the State Transportation Fund, and upon determining that there has been compliance with that court order, the Controller shall transfer from the State Highway Account in the State Transportation Fund to the General Fund the sum of thirty million six hundred eighty-two thousand dollars (\$30,682,000), plus any interest awarded by the court and the interest that accrued to that sum from the date of compliance with the court's order to the effective date of the transfer required under this section. The sum transferred under this subdivision shall be from funds in the State Highway Account that are not subject to Article XIX of the California Constitution.

SEC. 5. (a) Upon determining that a court has rendered a final decision on the merits which holds that the transfer made under Item 2660-013-042 of Section 2.00 of the Budget Act of 1993 is invalid and orders that those funds be transferred from the Motor Vehicle Account in the State Transportation Fund to the State Highway Account in that fund, and upon determining that there has been

compliance with that court order, the Controller shall transfer from the State Highway Account in the State Transportation Fund to the Motor Vehicle Account in that fund the sum of one hundred thirty million dollars (\$130,000,000), plus any interest awarded by the court and the interest that accrued to that sum from the date of compliance with the court's order to the effective date of the transfer required under this section.

(b) The funds transferred by the Controller pursuant to subdivision (a) shall be available, upon appropriation, for support of the Department of the California Highway Patrol.

SEC. 6. (a) The Legislature hereby finds and declares that the sum of one hundred thirty-one million one hundred ninety-five thousand dollars (\$131,195,000) is equal to the amount that was collected by the Department of Motor Vehicles from fees imposed for the sale of identity cards and information during the 1993–94, 1994–95, and 1995–96 fiscal years.

(b) Upon determining that a court has rendered a final decision on the merits which holds that the transfers made under Item 2740-021-044 of Section 2.00 of the Budget Acts of 1993, 1994, and 1995 are invalid and orders that those funds be transferred from the General Fund to the Motor Vehicle Account in the State Transportation Fund, and upon determining that there has been compliance with that court order, the Controller shall transfer from the Motor Vehicle Account in the State Transportation Fund to the General Fund the sum of one hundred thirty-one million one hundred ninety-five thousand dollars (\$131,195,000), plus any interest awarded by the court and the interest that accrued to the amounts transferred under Item 2740-021-044 of Section 2.00 of the Budget Acts of 1993, 1994, and 1995 from the date of compliance with the court's order to the effective date of the transfer required under this section. The sum transferred under this subdivision shall be from funds in the Motor Vehicle Account that are not subject to Article XIX of the California Constitution.

SEC. 7. Sections 3 to 6, inclusive, of this act shall be repealed on June 30, 2000, or on the day following the execution of the transfers required under Sections 4, 5, and 6 of this act, whichever date is first.

SEC. 8. (a) The Legislature finds and declares that more than 843,000 Californians were missed by the 1990 federal decennial census of population and that undercount resulted in the loss of \$2.2 billion in federal funds that would have been received by the state on the basis of population.

(b) It is the intent of the Legislature that the state take aggressive steps to increase participation in the 2000 federal decennial census of population. It is further the intent of the Legislature to increase participation in the federal census through an intensive, short-term outreach program to those groups that have been undercounted in the past.



SEC. 9. (a) The California Complete Count Committee is hereby established for the purpose of developing and implementing a plan to maximize the number of persons of this state that participate in the 2000 federal decennial census of population required by Section 141 of Title 13 of the United States Code through an intensive, short-term outreach program to those groups that have been undercounted in the past.

(b) The committee shall have nine members, to be appointed as follows:

(1) Two members appointed by the Governor who are from community-based organizations that serve groups that were undercounted in the 1990 federal decennial census of population.

(2) One member appointed by the Governor who is an official of the county that sustained the largest undercount in the 1990 federal decennial census of population.

(3) One member appointed by the Governor who is a representative of the school district with the most pupils who qualify for free and reduced price meals pursuant to the National School Lunch Act, as amended (42 U.S.C. Sec. 1751 and following).

(4) One member appointed by the Governor who is a representative of a state agency that has clients who are members of the groups that were undercounted in the 1990 federal decennial census of population.

(5) One member appointed by the President pro Tempore of the Senate.

(6) One member appointed by the Speaker of the Assembly.

(7) One member appointed by the Lieutenant Governor. The Lieutenant Governor shall also be a member of the committee and shall serve as the chairperson of the committee.

(c) The committee may enter into contracts with individuals or entities as necessary for the implementation or development of the plan.

(d) Motions considered by the committee shall be approved upon a vote of a majority of those members who are present and voting.

(e) The committee shall implement the plan no later than February 15, 2000, and shall continue to implement the plan through September 1, 2000. The committee shall cease to exist on December 31, 2000.

